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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,423	04/21/2005	Jaume Prat Terradas	30607/40513	4333
4743	7590	08/10/2007	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP			LUONG, VINH	
233 S. WACKER DRIVE, SUITE 6300			ART UNIT	PAPER NUMBER
SEARS TOWER			3682	
CHICAGO, IL 60606			MAIL DATE	DELIVERY MODE
			08/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/510,423	TERRADAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vinh T. Luong	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 August 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 8-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 8-12 and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
  - 10) The drawing(s) filed on 02 August 2007 and 06 October 2004 is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received

Vinh T. Luong  
Primary Examiner

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: Attachments 1 and 2.

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1. The amendment filed August 2, 2007 has been entered.

2. The drawings were received on August 2, 2007. These drawings are not accepted by the Examiner because the drawings are not in compliance with 37 CFR 1.121(d) and 1.84. For example, 37 CFR 1.84(p)(4) states "the same reference character must never be used to designate different parts." In the instant case, Applicant uses:

(a) The same reference character "52" to designate the lateral walls, the ribs, and the webs as shown in FIGS. 1, 2A, 3A and 3B and described in last paragraph on page 7 of the above amendment; and

(b) The same reference character "20" to designate different pedals as seen in FIG. 1.

3. The drawings were received on October 6, 2004. These drawings are unaccepted by the Examiner because the amendments to the drawings are not in compliance with:

(a) 37 CFR 1.121(d). For example, Applicant's replacement sheet does not have the label "Replacement Sheet" required by 37 CFR 1.121(d); and

(b) 37 CFR 1.84. For example, the reference character 52 in FIG. 2 lacks a lead line. See 37 CFR 1.84(q).

4. The *original* drawings are objected to because the original drawings are not in compliance with 37 CFR 1.84. See examples below:

(a) The reference character 52 in FIG. 2 lacks a lead line. See 37 CFR 1.84(q).

(b) The view numbers must be preceded by the abbreviation "FIG." and must be larger than the numbers used for reference characters. See 37 CFR 1.84(u);

(c) The drawings are not consistent with the written disclosure. For example,

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page 6 of the specification describes two different pedals 20, however, FIG. 1 has only one reference character 20 that indicates one pedal as seen in FIG. 1. See 37 CFR 1.84(p)(4);

(d) Each part of the invention, such as, the ribs or webs in Claim 8 and on page 10 of the specification should be designated by a referential character;

(e) The shading in FIGS. 1-3 should be deleted since it does not aid in understanding of the invention and reduces legibility. 37 CFR 1.84(m); and

(f) Each view must be labeled separately. For example, FIG. 2A and FIG. 2B. See 37 CFR 1.84(h)(2).

Applicant is respectfully urged to follow examples of patent drawings in the Guide for the Preparation of Patent Drawings available from the USPTO website [www.uspto.gov](http://www.uspto.gov). See MPEP 608.02.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. *The objection to the drawings will not be held in abeyance.*

5. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the objections above. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. *The requirement for corrected drawings will not be held in abeyance.*

6. The disclosure is objected to because of the informalities, such as, e.g., each part of the invention, such as, the ribs or webs in Claim 8 should be designated by a reference character that is different from the one of the lateral walls. See 37 CFR 1.84(p)(4). Appropriate correction is required.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 8-12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether a variety of terms, such as, "lateral walls," "ribs," and "webs" in Claim 8 refer to the same or different things. Applicant's FIGS. 3A and 3B show that they are apparently the same thing. In fact, they are all designated by the same reference character "52" as seen in replacement drawings. See MPEP 608.01(o) and double inclusion in MPEP 2173.05(o).

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9. Claims 8-12 and 14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Ananthasivan et al. (EP 0 997 361 B1 published on May 3, 200 and cited as a X reference in International Search Report of Applicant's corresponding PCT Application).

Regarding claim 8, Ananthasivan teaches a pedal security system for pedal mounting, particularly in motor vehicles, comprising:

a pedal 20 rotatably mounted by means of a pedal axis 32, 30 (FIGS. 2 and 3);  
an opening 44 (see FIG. 6 in Attachment 1 hereinafter "Att. 1") for receiving and retaining the pedal axis 32, 30; and  
a slot 38 connected to the opening 44 and defining longer sides 46 (*id.* Paragraph [0013], Att. 1), the slot 38 comprising lateral walls 36 along slot longer sides 46,  
the lateral walls 36 comprising ribs or webs 50 (FIG. 4 in Att. 1) that extend longitudinally in the slot 38,  
the lateral walls 36 having a first position (FIG. 6) in which the lateral walls 36 project into the slot 38 and a second position (FIG. 5) in which the lateral walls 36 are moved out of the slot 38, wherein the pedal axis 32, 30 engages the lateral walls 36 and moves the lateral walls 36 from the first position (FIG. 6) to the second position (FIG. 5) by exceeding a mechanical limit loading of the pedal axis 32, 30 whereby the slot 38 receives the pedal axis 32, 30. *Ibid.* paragraph [0014] *et seq.* and Claims 1-19.

Regarding claim 9, a pushing element 64 cooperates with the pedal axis 32, 30 to transmit a load to the pedal axis 32, 30 thereby forcing the pedal axis 32, 30 into the slot 38 when the load exceeds the mechanical limit loading of the pedal axis 32, 30.

Regarding claim 10, the slot 38 defines a predetermined displacement path of the pedal axis 32, 30.

Regarding claim 11, the slot 38 is formed by an elongated hole (FIGS. 2-6) which is partly closed by the lateral walls 36 projecting therein.

Regarding claim 12, the lateral walls 36 are bent, dismounted, or pushed away from the expandable slot 38 in response to the mechanical limit loading by the pedal axis 32. *Ibid.* paragraphs [0014] and [0015].

Regarding claim 14, said opening 44 for receiving the pedal axis 32, 30 and said slot 38 are arranged in a pedal block 16.

10. Claims 8 and 10-12, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Mueller et al. (US Patent No. 6,786,109 B2 filed on May 10, 2001).

Regarding claim 8, Mueller teaches a pedal security system for pedal mounting, particularly in motor vehicles, comprising:

a pedal 2 rotatably mounted by means of a pedal axis (see FIG. 2 of Attachment 2 hereinafter "Att. 2");

an opening 8 for receiving and retaining the pedal axis (Att. 2); and

a slot (unnumbered in FIGS. 2 and 5 in Att. 2) connected to the opening 8 and defining longer sides 6, the slot (Att. 2) comprising lateral walls 6 along the slot longer sides 6,

the lateral walls 6 comprising ribs or webs (the ribs or webs are spaced from each other by gaps as seen in FIGS. 2 and 5),

the lateral walls 6 capable of having a first position in which the lateral walls 6 project into the slot (FIG. 5) and a second position (FIG. 2) in which the lateral walls 6 are moved out of

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the slot, wherein the pedal axis (Att. 2) engages the lateral walls 6 and moves the lateral walls 6 from the first position to the second position by exceeding a mechanical limit loading of the pedal axis (Att. 2), whereby the slot (Att. 2) receives the pedal axis (Att. 2). *Ibid.* Claims 1-16.

Regarding claim 10, the slot (FIG. 2 of Att. 2) defines a predetermined displacement path of the pedal axis (Att. 2).

Regarding claim 11, the slot is formed by an elongated hole (FIG. 5 of Att. 2), which is partly closed by the lateral walls 6 projecting therein.

Regarding claim 12, the lateral walls 6 are capable of being bent, dismounted, or pushed away from the slot (FIG. 5 of Att. 2) in response to the mechanical limit loading by the pedal axis (Att. 2).

11. Applicant's arguments filed August 2, 2007 have been fully considered but they are not persuasive.

## DRAWINGS

The drawing objection is respectfully maintained for the reasons set forth above.

## 35 USC 112

The rejections based on 35 USC 112 are withdrawn in view of Applicant's amendment.

## 35 USC 102

Applicant contended:

In particular, claim 1, as amended, recites that the lateral walls include ribs or webs that extend longitudinally in the slot. Exemplary embodiments of such structures may be found in the figures, Figs. 1, 2A and 3B, for example.

The allegedly corresponding lateral walls of Ananthasivan et al. and Mueller do not meet this limitation. Simply put, *there are no corresponding ribs or webs present in the allegedly corresponding*

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*slots of Ananthasivan et al. and Mueller that extend longitudinally in the slot.* At best, Ananthasivan et al. shows a pair of semicircular extensions 48 that depend into the slot; these are not, however, the recited ribs or webs that extend longitudinally in the slot and that meet all of the other limitations recited in regard to the lateral walls. Mueller *appears* to be devoid of any similar structure. (Emphasis added).

As noted in MPEP 2111, during patent examination, claims are given their broadest reasonable interpretation consistent with the specification. It is proper to use the specification to interpret what the applicant meant by a word or phrase recited in the claim. However, it is not proper to read limitations appearing in the specification into the claim when these limitations are not recited in the claim. See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994); *Intervet America Inc. v. Kee-Vet Lab. Inc.*, 887 F.2d 1050, 1053, 12 USPQ2d 1474, 1476 (Fed. Cir. 1989); and *Phillips v. AWH Industries*, 415 F.3d 1303 [75 USPQ2d 1321](Fed. Cir. 2005)(*en banc*). It is well settled that anticipation law requires distinction be made between invention described or taught and invention claimed. It does not require that the reference “teach” what subject patent application teaches, it is only necessary that the claim under attack, as construed by the Court, “*read on*” something disclosed in the reference, i.e., all limitations of the claim are found in reference, or are “*fully met*” by it. *Kalman v. Kimberly Clark Corp.*, 218 USPQ 781, 789 (CAFC 1983).

In the instant case, *Webster's II New Riverside University Dictionary*, 1994, defines “web” as “a structure of *threadlike* filaments spun by spiders or certain insect larvae” (emphasis added). Therefore, the threadlike filaments of the threads 50 of Ananthasivan’s fastener/lateral walls 36 in FIG. 4 “read on” the claimed “webs.” As noted, the threads 50 of Ananthasivan’s fastener 36 are equivalent to Applicant’s threads/webs 52 in Applicant’s FIG. 3A.

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Similarly, Mueller teaches the longitudinal ribs that are spaced apart from each other by longitudinal gaps at outer end of the lateral walls 6. These ribs are similar to the ribs 25 formed at the outer end of the pedal shaft in FIG. 2A of reference DE 100 17 794 A1 cited in the record. Because Mueller explicitly shows the structure similarly or substantially identical to Applicant's ribs in Applicant's FIG. 3B, therefore, Claim 8 is anticipated by Mueller.

In consideration of the fact that Ananthasivan or Mueller either expressly or inherently described each and every claimed in Claim 8, thus, Claim 8 is anticipated by Ananthasivan or Mueller. *Ex parte Smith*, B.P.A.I, No. 2007-1925, 6/25/07.

For the foregoing, the Examiner respectfully submits that all of the pending claims of the instant application are not in condition for allowance.

**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

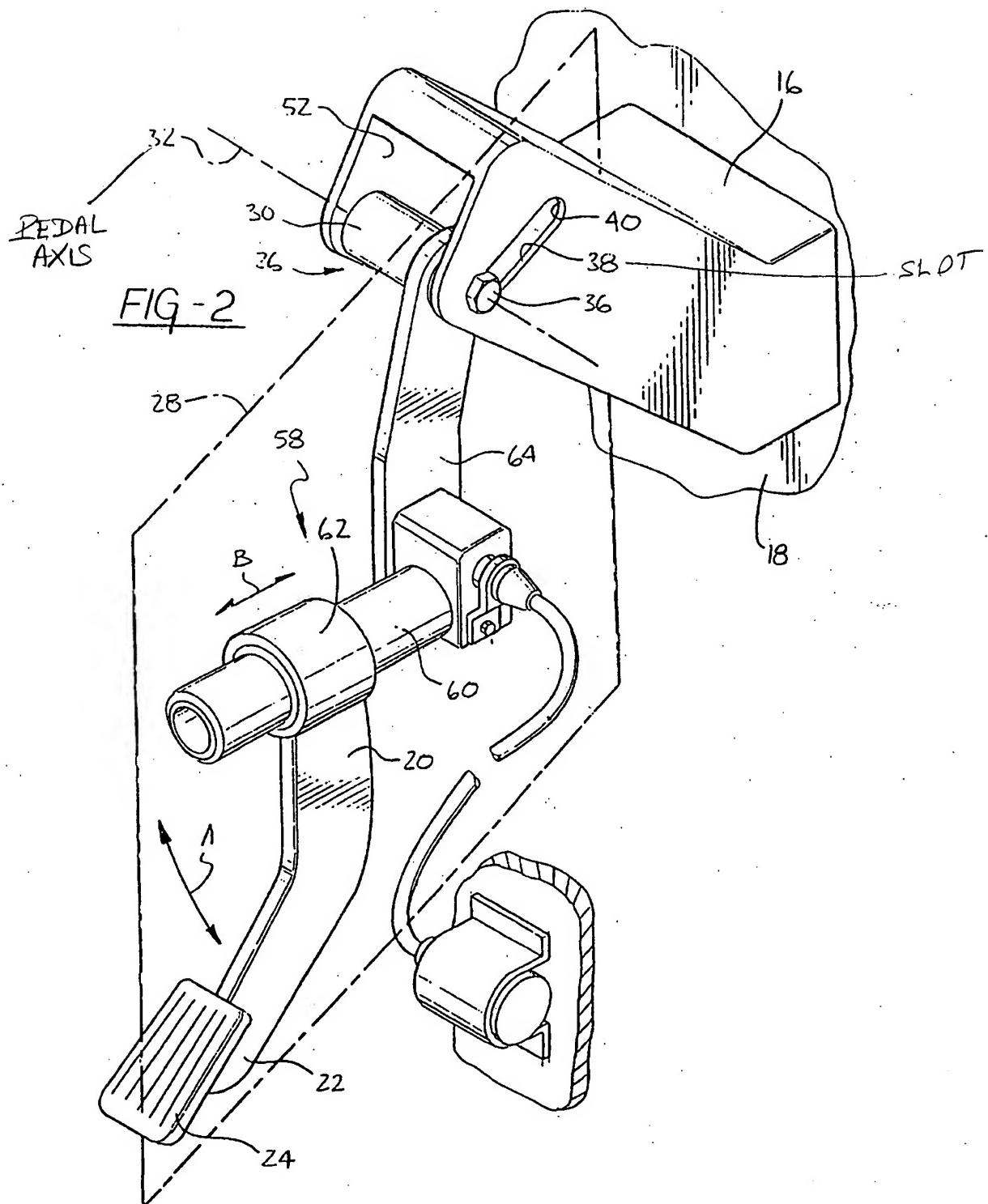
Luong

August 8, 2007



Vinh T. Luong  
Primary Examiner

# **ATTACHMENT 1**



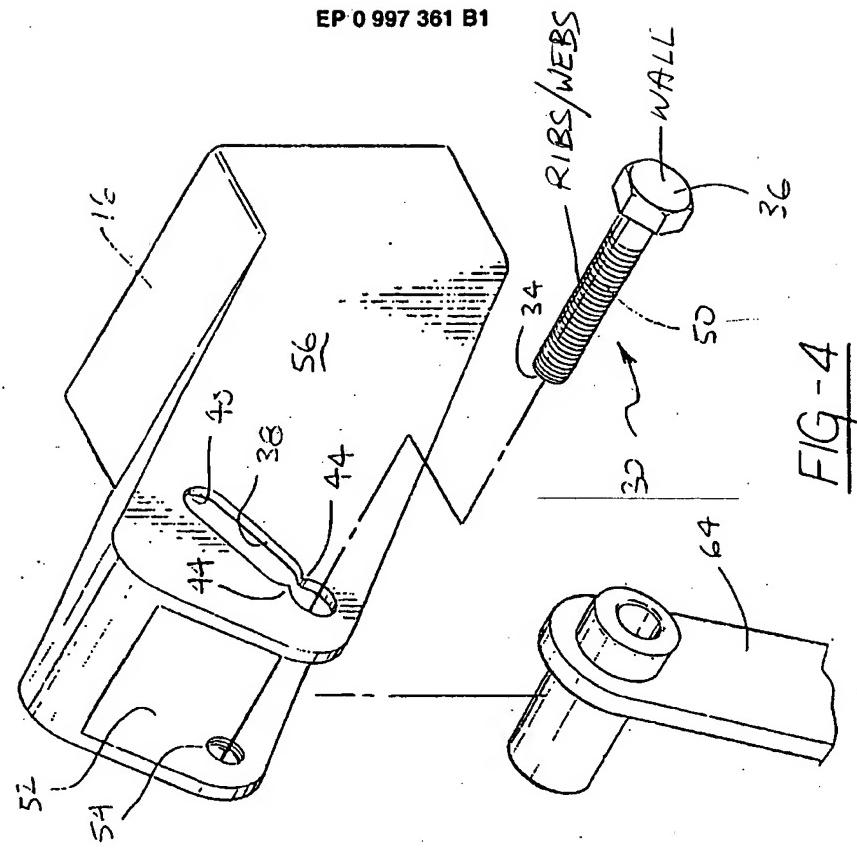


FIG - 4

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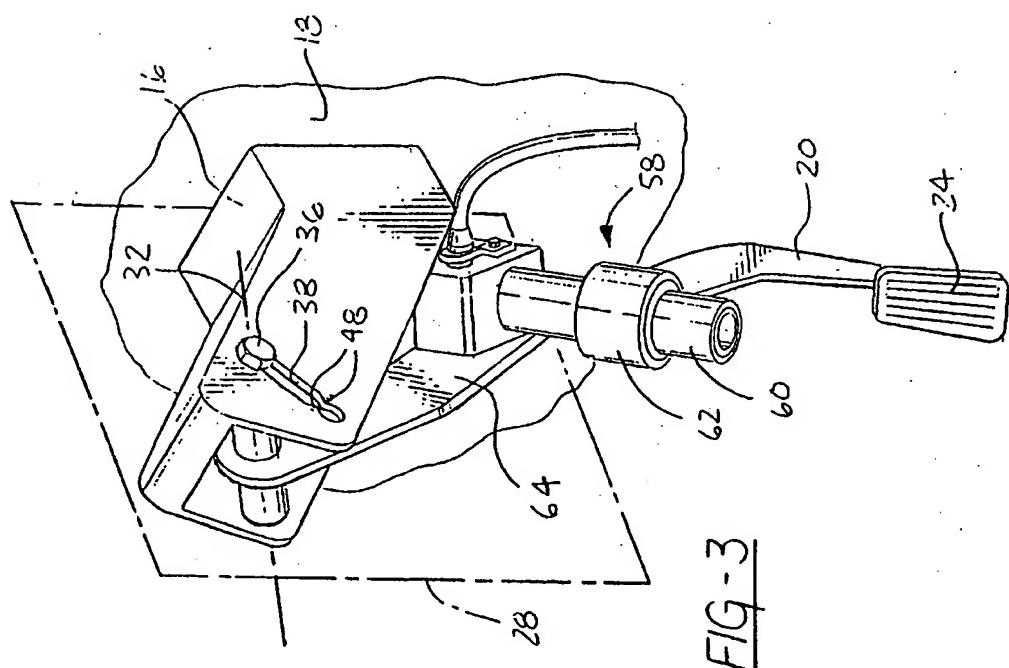


FIG - 3

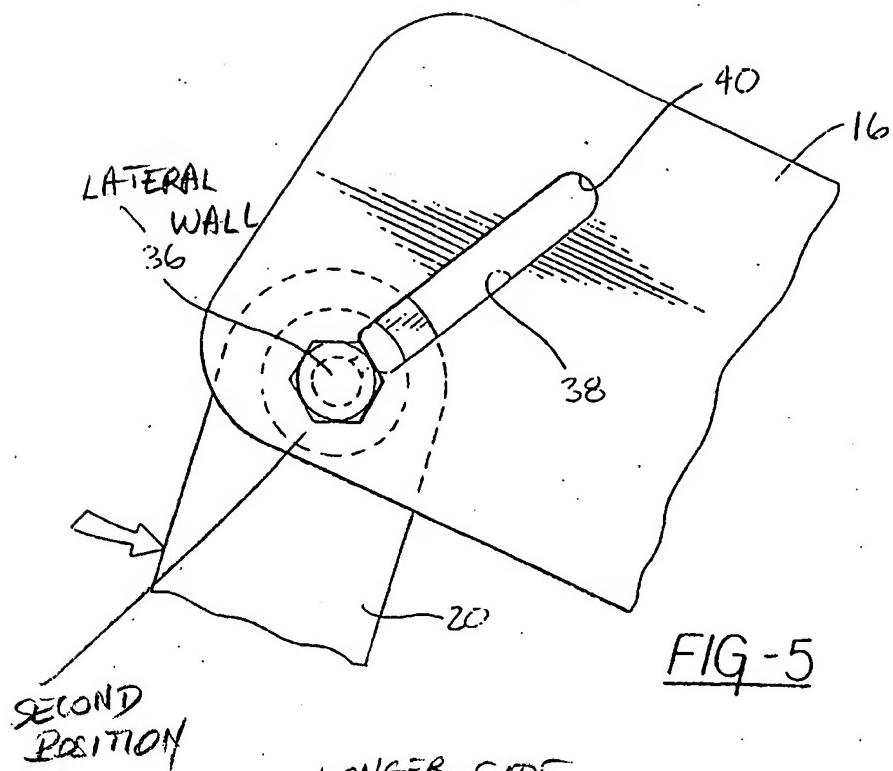


FIG-5

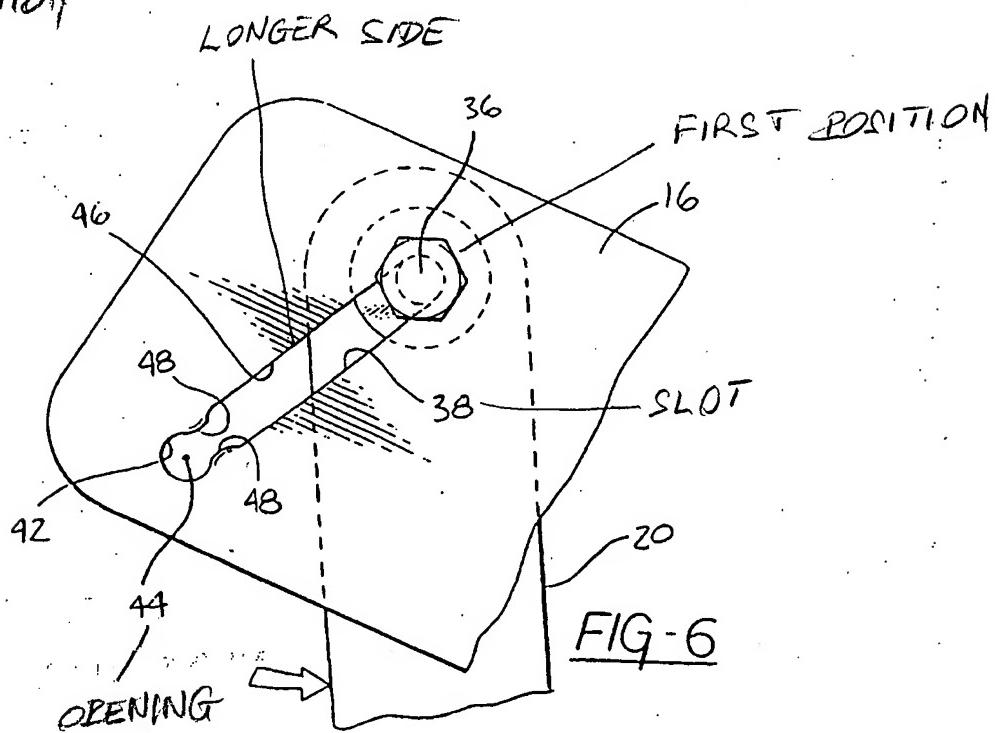


FIG-6

## **ATTACHMENT 2**

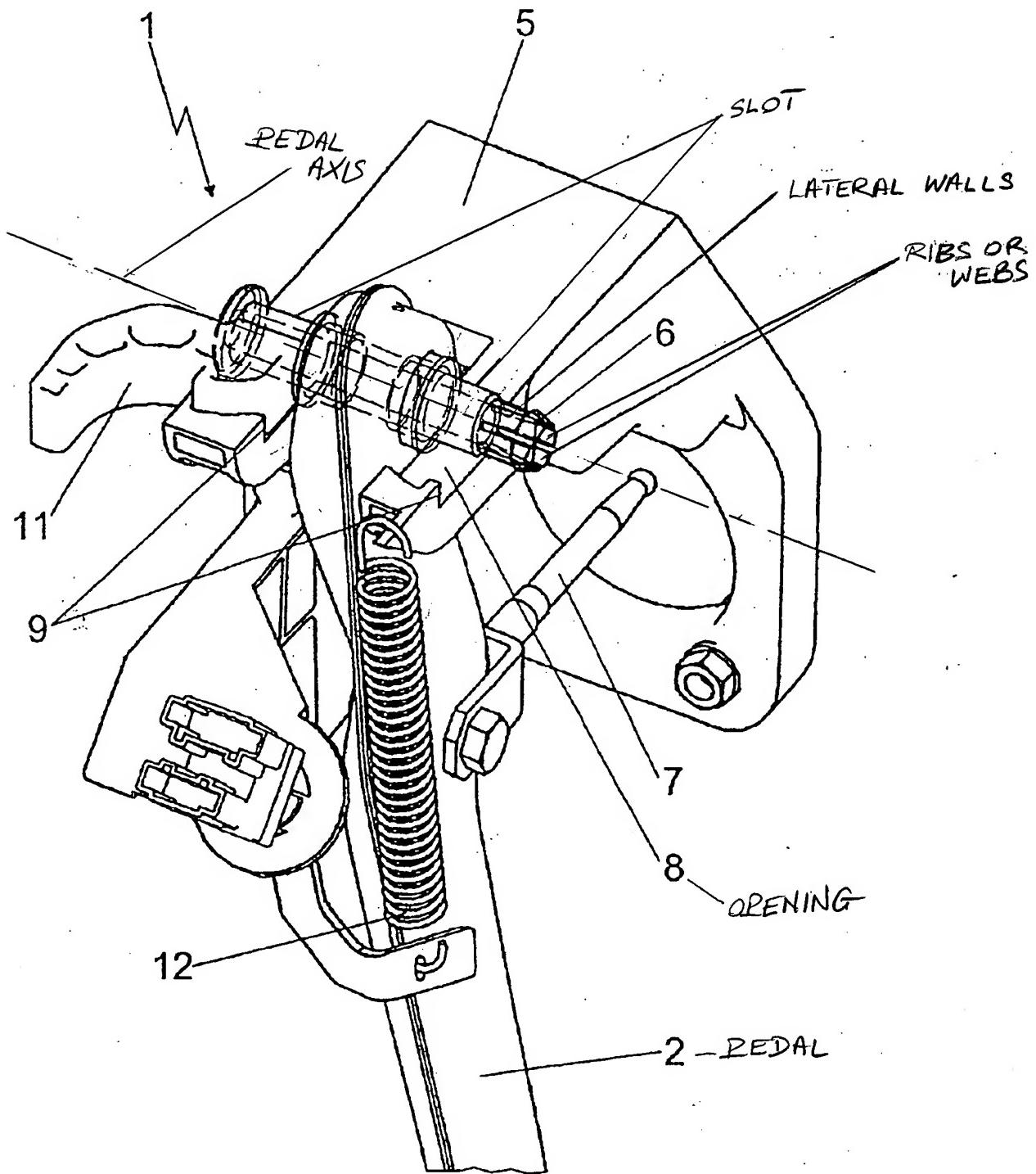


Fig. 2

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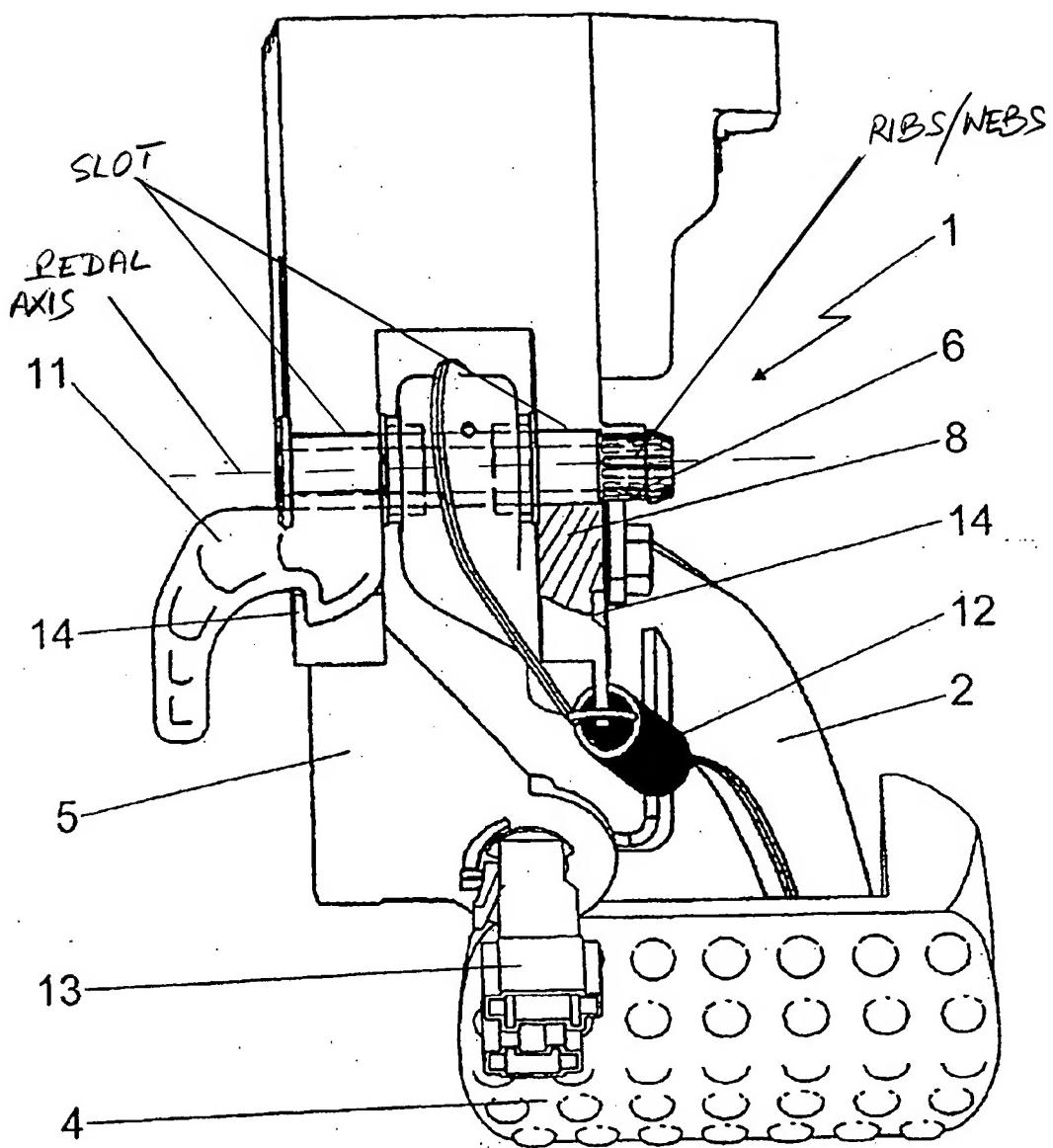


Fig. 5

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